

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Melvin E. Tadlock,)	Civil Action No. 8:06-3610-RBH
)	
Plaintiff,)	
vs.)	
)	
Michael J. Astrue, Commissioner of Social Security,)	ORDER
)	
Defendant.)	
)	

This matter is before the court for review of the Magistrate Judge's Report and Recommendation ("R&R") made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 (D.S.C.).

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

The plaintiff brought this action pursuant to 42 U.S.C. §§ 405(g), to obtain judicial review of a final decision by the Commissioner of Social Security which denied plaintiff's claim for disability insurance benefits ("DIB") under Title II of the Social Security Act, and Supplemental Income ("SSI") under Title XVI of the Social Security Act. The Magistrate Judge to whom this matter was referred has filed a detailed and comprehensive R&R recommending that this case be remanded pursuant to

sentence four of 42 U.S.C. § 405(g) to the Commissioner for further administrative action as set out in his Report and Recommendation. Neither party has filed any objections to the Magistrate Judge's Report and Recommendation. In fact, defendant filed a notice [16] on February 28, 2008, that it would not be filing any objections to the Magistrate Judge's Report and Recommendation.

In light of the standards set out above, the court has reviewed the Report and Recommendation filed by the Magistrate Judge and finds that the Report and Recommendation should be adopted.

It is therefore **ORDERED** that the Report and Recommendation be accepted and incorporated herein by reference, that the Commissioner's decision be reversed under sentence four of 42 U.S.C. §§ 405(g) and 1381(c)(3) with a **REMAND** to the Commissioner for further administrative action as set out in the Magistrate Judge's Report and Recommendation. **IT IS FURTHER ORDERED** that the plaintiff's request for remand under sentence six of 42 U.S.C. §§ 405(g) and 1381(c)(3) is **DENIED**.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

March 4, 2008
Florence, South Carolina